

1. Roll Call

James Shaw, Supervisor (Present)
Shawn Connolly, Councilmember (Present)
Elizabeth Farrell, Councilmember (Present)
Karen Hoak, Councilmember (Present)
Michael Petrie, Councilmember (Present)

ALSO PRESENT: Catherine Rybczynski, Town Clerk; Walter Rooth III, Town Attorney; Jennifer Robertson, IT Director; Christopher Hull, Director, Community Development; Samantha Tarczynski, Finance Director; Pat Ryan, Director of Buildings & Grounds; Martin Denecke, Director of Senior, Youth, and Recreation Departments; Katherine Hilliman, Chair, Traffic Safety; Roger Gibson, Senior Code Enforcement Officer; Kevin Trask, Police Chief; Shawn Crotty, Senior Dispatcher; Bridget Lavelle, Chief Court Clerk; Tom Lardo, Engineering; Alissa Straus, Personnel Clerk; Daniel Stanford, Assessor; Cami Jarrell, Engineering Consultant; Jennifer Kosmowski, Domestic Violence Advocate/Director; Brigid Lavelle, Court Administrator

Meeting convened at 7:00 PM.

2. Pledge of Allegiance

Supervisor Shaw opened the meeting with the recitation of the Pledge of Allegiance.

3. Minutes of Previous Meeting

RESOLVED, the Hamburg Town Board does hereby approve the minutes as follows:

4-27-2020 Town Board Meeting
4-27-2020 Town Board Work Session

Moved: Hoak

On a motion of Councilman Hoak, seconded by Councilman Petrie, the following resolution was

ADOPTED Ayes 5 Connolly, Farrell, Hoak, Petrie, Shaw
Nays 0
Abstain 0

4. Title Change: Full Time Senior Personnel Clerk

RESOLVED, that the Town Board approve the title change of Alissa Straus, Provisional Personnel Clerk to the available full time provisional title of Senior Personnel Clerk within the Personnel Department.

MOVED: Shaw

On a motion of Supervisor Shaw, seconded by Councilman Farrell, the following resolution was

ADOPTED **Ayes 5** **Connolly, Farrell, Hoak, Petrie, Shaw**
Nays 0
Abstain 0

5. B&G PAF

BE IT RESOLVED, that the Town Board approve the hiring of the following personnel in the Buildings & Grounds Dept.

MOVED: Shaw

On a motion of Supervisor Shaw, seconded by Councilman Connolly, the following resolution was

ADOPTED **Ayes 5** **Connolly, Farrell, Hoak, Petrie, Shaw**
Nays 0
Abstain 0

6. Overtime

WHEREAS, the Town of Hamburg is suffering from severe adverse impacts to its municipal budget as a result of declining revenue occasioned by the COVID-19 pandemic; and WHEREAS, the Hamburg Town Board voted on 4/27/20 to eliminate overtime work for all of its employees in all department of Town Government absent emergency circumstances; NOW THEREFORE BE IT

RESOLVED, that overtime services in given Town departments shall be honored in circumstances which are strictly limited to contractual obligations or financial reimbursement from the Federal or New York State governments pursuant to a funding program or grant; and

BE IT FURTHER

RESOLVED, that all overtime submissions shall be timely sent to the Personnel Office whereupon the given department head shall document it as being attributed to an emergency circumstance, which in turn will be approved by the Town Supervisor, whose determination will be subject to further determination by the Town Board upon departmental request.

Moved: Shaw

On a motion of Supervisor Shaw, seconded by Councilman Hoak, the following resolution was

ADOPTED **Ayes 5** **Connolly, Farrell, Hoak, Petrie, Shaw**
Nays 0
Abstain 0

7. PAF for 5/11/20 RECREATION

BE IT RESOLVED, that the Town Board approve the termination and hiring of personnel for the Youth, Recreation and Senior Services Dept. as follows:

MOVED: Connolly

On a motion of Councilman Connolly, seconded by Supervisor Shaw, the following resolution was

ADOPTED **Ayes 5** **Connolly, Farrell, Hoak, Petrie, Shaw**
Nays 0
Abstain 0

8. Solar Energy Law

WHEREAS, This Solar Energy Local Law is adopted to advance and protect the public health, safety, and welfare of the Town of Hamburg by creating regulations for the installation and use of solar energy generating systems and equipment, with the following objectives and intent:

1. To take advantage of a safe, abundant, renewable and non-polluting energy resource;
2. To decrease the cost of electricity to the owners of residential and commercial properties, including single-family houses;
3. To invest in a locally generated source of energy to increase employment and business development in the Town of Hamburg to the extent reasonably practical by furthering the installation of solar energy systems;
4. To provide tax revenues and other benefits to the Town and its residents to mitigate impacts from the solar project;
5. To mitigate the impacts of Solar Energy Systems on environmental resources such as important agricultural lands, forests, wildlife and other protected resources. The use of small-scale, on-farm sources alternative to energy generation is beneficial to local farmers allowing them the ability to cut utility costs and/or supplement their income;
6. To protect adjoining/surrounding property owners by mitigating the potential impacts from large scale solar installations;
7. To aid in the energy independence of the community as well as the country;
8. To create zoning regulations in accordance with the Town's Comprehensive Plan.

WHEREAS, The requirements of this Local Law shall apply to all Solar Energy Systems permitted, installed, or modified in the Town after the effective date of this Local Law, excluding general maintenance and repair.

WHEREAS, This local law shall take effect immediately upon filing with the New

York Secretary of State.

NOW THEREFORE BE IT RESOLVED, the Town Board is proposing to enact a local law to be known as Proposed Local Law #3 of 2020 which is attached hereto which shall apply within the jurisdiction of the Town of Hamburg, and

BE IT FURTHER RESOLVED, the Town Board sets a Public Hearing on this proposed Local Law at the Hamburg Town Hall, 6100 South Park Avenue, Hamburg, NY at 7:00 pm on June 8, 2020.

Moved: Shaw

On a motion of Supervisor Shaw, seconded by Councilman Petrie, the following resolution was

ADOPTED Ayes 5 Connolly, Farrell, Hoak, Petrie, Shaw
Nays 0
Abstain 0

A motion to amend was made by Supervisor Shaw, seconded by Councilwoman Farrell, amend the resolution as follows:

ADD after the first RESOLVED Clause and prior to the last RESOLVED Clause the following:

BE IT FURTHER RESOLVED, that the town authorizes a SEQR coordinated review for Type 1 SEQR action precedent to a referral through the County of Erie, and

The Motion to Amend was APPROVED 5 - 0.

Supervisor Shaw	AYE
Councilman Connolly	AYE
Councilwoman Farrell	AYE
Councilwoman Hoak	AYE
Councilman Petrie	AYE

A motion to approve as amended was made by Supervisor Shaw, seconded by Councilman Petrie.

The Motion to Approve as Amended was APPROVED 5 - 0.

Supervisor Shaw	AYE
Councilman Connolly	AYE
Councilwoman Farrell	AYE
Councilwoman Hoak	AYE
Councilman Petrie	AYE

9. Federal Relief

WHEREAS, Erie County's jobless claims climbed to a staggering peak on Friday May 1st, bringing our local unemployment rate to 24%, almost 5 times higher than the jobless rate of 5% in February, and roughly equivalent to the maximum unemployment rate during the depths of the Great Depression; and

WHEREAS, the State of New York predicts a State aide cut to municipalities (including Hamburg) of almost \$8.3 billion during this fiscal year; and
 WHEREAS, Hamburg’s share of State sales tax revenue is predicted to plummet for the months of March through June 30 by a sum between \$600,000-\$800,000. Mortgage tax revenue for Hamburg has flattened and other forms of State aide to our Township face an almost certain date with the chopping block; and
 WHEREAS, we in Hamburg have been unable to realize revenue from local sources, such as fees, assessments, and fines during the past 10 weeks; all of which contribute to the biggest economic meltdown in our lifetimes;
 NOW THEREFORE BE IT
 RESOLVED, that the Hamburg Town Board joins other communities of Western New York in petitioning the Federal Government to provide immediate economic stimulus for our State and its Towns, Villages and Cities that will help alleviate the financial strain that chokes us, and afford to the hard pressed taxpayers of our Community some degree of financial relief.
NOW THEREFORE, BE FURTHER IT
RESOLVED, that this resolution shall be forwarded to the Congressional Delegation of the State of New York and to the Majority and Minority leaders of both Houses of Congress.

Moved: Shaw

On a motion of Supervisor Shaw, seconded by Councilman Farrell, the following resolution was

ADOPTED **Ayes 5** **Connolly, Farrell, Hoak, Petrie, Shaw**
 Nays 0
 Abstain 0

10. Retail Ad hoc

WHEREAS, the Hamburg Town Board established an Ad Hoc Committee to review and report on the status of retail vacancies in various plazas and strip malls throughout the Town of Hamburg; and
 WHEREAS, the foregoing resolution provided for the imposition of a moratorium on all new commercial or retail construction which was to be constructed upon speculation of future rentals; and
 WHEREAS, the moratorium was enacted for a six-month period and subsequently extended by the Town Board for an additional six-month period to enable the Ad Hoc Committee to complete its review and issue recommendations to the Town Board and the Community at large;
 WHEREAS, the second six-month moratorium is set to expire on or about the 25th day of May 2020;
 NOW THEREFORE BE IT
 RESOLVED, that the Hamburg Town Board acknowledges the expiration of the moratorium as being in the best interests of the Community in light of the economic collapse occasioned by the coronavirus pandemic, and as such there shall be no further moratorium extension; and
 BE IT FURTHER
 RESOLVED, That the Ad Hoc Committee shall file with the Hamburg Town Board its final report enumerating any remedial measures or recommendations it may care to make to address the underlying issue of significant retail vacancies within the Town of Hamburg, and

that such report shall be filed on or before the 1st of September, 2020.

Moved: Shaw

On a motion of Supervisor Shaw, seconded by Councilman Farrell, the following resolution was

ADOPTED **Ayes 5** **Connolly, Farrell, Hoak, Petrie, Shaw**
Nays 0
Abstain 0

11. Hoover Beach MOU

RESOLVED, that the Town of Hamburg shall take all reasonable measures within its financial ability to obtain, administer, and implement grant funding to Hoover Beach Incorporated, for the development of infrastructure necessary to mitigate flooding and to revitalize the entirety of Hamburg's shoreline;
As a consequence the Supervisor of the Town of Hamburg is authorized to enter into the Memorandum of Understanding with Hoover Beach Inc. (a copy of same is attached hereto).
Moved: Shaw

On a motion of Supervisor Shaw, seconded by Councilman Petrie, the following resolution was

ADOPTED **Ayes 5** **Connolly, Farrell, Hoak, Petrie, Shaw**
Nays 0
Abstain 0

12. Fire Company 2019 LOSAP Points

Whereas the Town of Hamburg is the plan administrator and overriding authority on Length of Service Award Program "LOSAP" for the Armor, Big Tree, Lakeshore, Newton Abbott, Scranton, and Woodlawn Volunteer Fire Companies and,

Whereas Penflex requires Town certification of each company's LOSAP points every calendar year and,

Whereas due to COVID-19 it is impractical for the necessary documents to be signed by each Town Board member for the 2019 year within a reasonable timeframe for reporting;

Now therefore be it resolved that the Town Board of the Town of Hamburg approve the 2019 LOSAP point documents as submitted to the Town of Hamburg Finance Department (also known as the pink, blue and green sheets).

One certified copy of this resolution will be provided to the Director of Administration & Finance, Samantha Tarczynski, for filing with Penflex.

Moved: Shaw

On a motion of Supervisor Shaw, seconded by Councilman Hoak, the following resolution was

ADOPTED Ayes 5 Connolly, Farrell, Hoak, Petrie, Shaw
Nays 0
Abstain 0

A Motion to Amend was made by Supervisor Shaw, seconded by Councilman Petrie, to Amend the Resolution as follows:

Add after the first Resolved Clause the following:

Be it Further Resolved that the Finance Director shall provide copies of the point certifications for each Company to the Town Board upon completion of the point verification process.

The Motion to Amend was APPROVED 5 - 0.

Supervisor Shaw	AYE
Councilman Connolly	AYE
Councilwoman Farrell	AYE
Councilwoman Hoak	AYE
Councilman Petrie	AYE

A Motion to Approve as Amended was made by Supervisor Shaw, seconded by Councilwoman Farrell.

The Motion to Approved as Amended was APPROVED 5 - 0.

Supervisor Shaw	AYE
Councilman Connolly	AYE
Councilwoman Farrell	AYE
Councilwoman Hoak	AYE
Councilman Petrie	AYE

13. Audit of Cash Disbursements 5-11-2020

TOWN BOARD AUDIT OF CASH DISBURSEMENTS		
MONDAY MAY 11, 2020		
OPERATING FUND		
Batch Number	Voucher Number	Amount
57	108265-108309	\$ 22,765.16
58	108310-108383	\$ 103,802.84
59	108384-108442	\$ 29,541.47
60	108443-108485	\$ 53,716.74
Total Operating Fund Disbursements		\$ 209,826.21
TRUST AND AGENCY FUND		
Batch Number	Voucher Number	Amount
Total Trust and Agency Fund Disbursements		\$ -
CAPITAL FUND		
Batch Number	Voucher Number	Amount
Total Capital Fund Disbursements		\$ -
PAYROLL		
Payroll Number		Amount
Total Payroll Disbursements		\$ -
PETTY CASH		
TOTAL CASH DISBURSEMENTS SUBMITTED FOR AUDIT:		\$ 209,826.21

On a motion of Supervisor Shaw, seconded by Councilman Petrie, the following resolution was

ADOPTED **Ayes 5** **Connolly, Farrell, Hoak, Petrie, Shaw**
Nays 0
Abstain 0

Motion was made by Supervisor Shaw to Receive and File, seconded by Councilman Petrie and approved 5 - 0.

14. Business from the Floor

Reports of Department Heads

Kevin Trask, Chief of Police - call volume continues to be lower than usual allowing the department to safeguard police officers health and safety.

Martin C. Denecke, Director of Youth, Recreation & Senior Services - Boat Launch and Beach stickers now available at Town Clerk's office. The launch should be ready Wednesday.

Councilman Connolly - Announced opening of Golf Course on May 15th. Social Distancing will be required. Congratulated those responsible for opening the course.

Alissa Strauss, Senior Personnel Clerk - Busy creating the "Return to Work" policy.

Brigid Lavelle, Chief Court Clerk - Court offices may be open on Monday, Wednesday, and Friday to get caught up.

Jennifer Robertson, IT Director - Getting thermometers set up for employees return to work and updating the network.

Pat Ryan, Director of Buildings & Grounds - Mr. Ryan gave credit to Scott Vuich and Jeremy Falbo for the work they performed to get the golf course ready for the season. Docks will be in by Wednesday at the beach.

Roger Gibson, Sr. Code Enforcement Officer - continue to be busy with permit applications.

Jennifer Kosmowski, Domestic Violence Advocate - business as usual with a little bit of an uptick over the weekend.

Cami Jarrell, Engineering Consultant - Lake Ave crosswalk work continues. Work also being prepared for on the train station and library. Supervisor Shaw asked about sewer issue at Twin Willows and Ms. Jarrell offered options to help alleviate the problems such as clean out one severely clogged pipe or tap into a working line.

Katherine Hilliman, Traffic Safety - updating child impairment application system; updating defensive driving courses

Catherine Rybczynski, Town Clerk - office remains active and busy.

Walter Rooth, Town Attorney - Closing on Madison Ave. Property will need some papers signed, but is wrapping up.

Report from Elected Officials

Councilman Petrie - Encouraged to see FEMA help for Hoover Beach

Councilwoman Farrell - continues to work on Human Resources suite. Extended thanks to everyone working in town hall and residents.

Councilwoman Hoak - thanked residents for patience and wants to continue to streamline communications.

Councilman Connolly - Will have an answer on the youth programs in the next couple of weeks. American Legion Baseball season cancelled.

Supervisor Shaw - We will continue to evolve and serve residents.

15. Meeting is adjourned by Supervisor

On a motion of Supervisor Shaw, seconded by Councilman Farrell, the following resolution was

ADOPTED	Ayes 5	Connolly, Farrell, Hoak, Petrie, Shaw
	Nays 0	
	Abstain 0	

Meeting is adjourned at 7:39 PM.

Open Meetings Law, Public Officers Law, Article 7, §106. Minutes.

Minutes shall be taken at all open meetings of a public body which shall consist of a record or summary of all motions, proposals, resolutions and any other matter formally voted upon and the vote thereon.

These minutes are an unofficial copy unless the original signature of the Town Clerk is affixed below. The original official paper minutes are stored in the Town's vault.

Catherine A. Rybczynski, R. M. A.
Hamburg Town Clerk

TOWN OF HAMBURG - PERSONNEL ACTION FORM

Date of Request _____

Department- _____

Department Head Signature _____



Supervisor Signature _____

Date _____

TOWN BOARD MEETING OF May 11, 2020

PAGE _____ of _____

I request that a Town Board Resolution be adopted approving the following personnel action:

#	Emp #	Emp Name	N or R	Position	Start date	Full time hrly rate	PT/Sea/temp hrly rate	Term date
1	4921	Benjamin Insalaco		PT Sea/Laborer/A.7140.100	5/12/2020		\$11.80	
2	4714	Ceelay Boswell		PT Sea/Laborer/A.7140.100	5/12/2020		\$11.80	
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TOWN OF HAMBURG - PERSONNEL ACTION FORM

Date of Request: 5/7/20 Department: Youth, Recreation, Senior Services

Department Head Signature: 

Supervisor Signature _____ Date: _____

TOWN BOARD MEETING OF 5/11/20

PAGE 1 of 1

I request that a Town Board Resolution be adopted approving the following personnel action:

#	Emp #	Employee Name	N or R	Position	Start date	Full time hourly rate	PT/Sea/temp hourly rate	Termination Date
1	4693	Flanigan, James		Van Driver-A6772-Seas				3/15/2020
	4693	Flanigan, James	R	Van Driver-A6772-P/T	3/16/20		\$12.25	
2	4609	Ljungberg-Hardick, Gayle		Rec Attd-A7310-Seas				4/11/2020
	4609	Ljungberg-Hardick, Gayle	R	Rec Attd-A7310-P/T	4/12/20		\$14.00	
3	4696	Hilaire, Rachel		Rec Attd-A6780-Seas				3/29/2020
	4696	Hilaire, Rachel	R	Rec Attd-A6780-P/T	3/30/20		\$12.40	
4	4040	Jedynak, Richard		Van Driver-A6772-Seas				3/15/2020
	4040	Jedynak, Richard	R	Van Driver-A6772-P/T	3/16/20		\$12.50	
5	3954	Lake, Karen		Rec Attd-A6772-Seas				3/29/2020
	3954	Lake, Karen	R	Rec Attd-A6772-P/T	3/30/20		\$12.50	
6	4692	Sambora, David		Van Driver-A6772-Seas				3/29/2020
	4692	Sambora, David	R	Van Driver-A6772-P/T	3/30/20		\$12.25	
7	4858	Stanek, Kristen		Rec Attd-A7310				5/11/2020
8	4062	Wicka, John		Rec Attd-A7310				5/11/2020

rev 03/14

TOWN OF HAMBURG - PERSONNEL ACTION FORM

ARTICLE

SECTION 280- SOLAR ENERGY

XXX-1. Authority

This Solar Energy Local Law is adopted pursuant to sections 130 and 261-265 of the Town Law for the State of New York, which authorizes the Town to adopt zoning provisions that advance and protect the health, safety and welfare of the community, and to make provision for, so far as conditions may permit, the accommodation of solar energy systems and equipment and access to sunlight necessary therefor.

xxx-2. Statement of Purpose

This Solar Energy Local Law is adopted to advance and protect the public health, safety, and welfare of the Town of Hamburg by creating regulations for the installation and use of solar energy generating systems and equipment, with the following objectives and intent:

1. To take advantage of a safe, abundant, renewable and non-polluting energy resource;
2. To decrease the cost of electricity to the owners of residential and commercial properties, including single-family houses;
3. To invest in a locally generated source of energy to increase employment and business development in the Town of Hamburg to the extent reasonably practical by furthering the installation of solar energy systems;
4. To provide tax revenues and other benefits to the Town and its residents to mitigate impacts from the solar project;
5. To mitigate the impacts of Solar Energy Systems on environmental resources such as important agricultural lands, forests, wildlife and other protected resources. The use of small-scale, on-farm sources alternative to energy generation is beneficial to local farmers allowing them the ability to cut utility costs and/or supplement their income;
6. To protect adjoining/surrounding property owners by mitigating the potential impacts from large scale solar installations;
7. To aid in the energy independence of the community as well as the country;
8. To create zoning regulations in accordance with the Town’s Comprehensive Plan.

xxx-3. Definitions

BUILDING-INTEGRATED SOLAR ENERGY SYSTEM: A combination of Solar Panels and Solar Energy Equipment integrated into any building envelope system such as vertical facades, semitransparent skylight systems, roofing materials, or shading over windows, which produce electricity for onsite consumption.

BUILDING-MOUNTED SOLAR ENERGY SYSTEMS – A solar energy system that is affixed to the side(s) of a building or other structure either directly or by means of support structures or other mounting devices, but not including those mounted to the roof or top surface of a building. Said system is designed and intended to generate electricity solely for use on said lot, potentially for multiple tenants, through a distribution system that is not available to the general public.

COLLECTIVE SOLAR - Solar installations owned collectively through subdivision homeowner associations or similar groups and which provides energy only for the onsite use of a subdivision or multi-family building. Collective solar installations shall be regulated depending upon generation capacity as either large-scale, or small-scale systems, as defined herein, and the on-site consumption for such a system shall include the parcel where the system is located and the consumption of the collective's member-owners' parcels.

DWELLING UNIT: Any residence/house/apartment that may be occupied or vacant

FARMLAND OF STATEWIDE IMPORTANCE: Land, designated as “Farmland of Statewide Importance” in the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS)’s Soil Survey Geographic (SSURGO) Database on Web Soil Survey that is of state wide importance for the production of food, feed, fiber, forage, and oilseed crops as determined by the appropriate state agency or agencies. Farmland of Statewide Importance may include tracts of land that have been designated for agriculture by state law.

GLARE: The effect by reflections of light with intensity sufficient as determined in a commercially reasonable manner to cause annoyance, discomfort, or loss in visual performance and visibility in any material respects.

GROUND-MOUNTED SOLAR ENERGY SYSTEM: A Solar Energy System that is anchored to the ground via a pole or other mounting system, detached from any other structure that generates electricity for onsite or offsite consumption.

HOST COMMUNITY AGREEMENT – A contract between a developer and a local governing body, whereby the developer agrees to provide the community with certain benefits and mitigate specified impacts of the solar project.

NATIVE PERENNIAL VEGETATION: native wildflowers, forbs, and grasses that serve as habitat, forage, and migratory way stations for pollinators and shall not include any prohibited or regulated invasive species as determined by the New York State Department of Environmental Conservation.

NON-PARTICIPATING PROPERTY; a property that is not affiliated with a Solar Energy System project in any way

PARCEL(S): A tract of land owned by an individual or entity leased or otherwise controlled by an applicant upon which a Solar Energy System is proposed to be constructed.

PARTICIPATING PROPERTY: A property that is being leased for solar usage, or a property that has an agreement or lease but is not having solar related improvements constructed upon it.

POLLINATOR: bees, birds, bats, and other insects or wildlife that pollinate flowering plants, and includes both wild and managed insects.

PRIME FARMLAND: Land, designated as “Prime Farmland” or “Prime Farmland where drained” in the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS)’s Soil Survey Geographic

(SSURGO) Database on Web Soil Survey, that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops and is also available for these land uses.

ROOF-MOUNTED SOLAR ENERGY SYSTEM: A Solar Energy System located on the roof of any legally permitted building or structure that produces electricity for onsite or offsite consumption.

SOLAR ACCESS: Space open to the sun and clear of overhangs or shade so as to permit the use of active and/or passive Solar Energy Systems on individual properties.

SOLAR ENERGY EQUIPMENT: Electrical material, hardware, inverters, conduit, storage devices, or other electrical and photovoltaic equipment associated with the production of electricity.

SOLAR ENERGY SYSTEM: The components and subsystems required to convert solar energy into electric energy suitable for use. The term includes, but is not limited to, Solar Panels and Solar Energy Equipment. A Solar Energy System in the Town of Hamburg is classified as a Tier 1, Tier 2, or Tier 3 Solar Energy System as follows.

A. Tier 1 Solar Energy Systems include the following:

1. Roof-Mounted Solar Energy Systems
2. Building-Integrated Solar Energy Systems

B. Tier 2 Solar Energy Systems include Ground-Mounted Solar Energy Systems up to 2,000 square feet in size (defined as the actual square footage of panels) and that generate no more than 110% of the electricity consumed on the site over the previous 12 months.

C. Tier 3 Solar Energy Systems are systems that do not meet the definition of a Tier 1 or Tier 2 Solar Energy Systems.

SOLAR PANEL: A photovoltaic device capable of collecting and converting solar energy into electricity.

STORAGE BATTERY: A device that stores energy and makes it available in an electrical form.

WETLANDS: Any areas designated as such by the NYS Department of Environmental Conservation or the US Army Corps of Engineers

XXX-4. Applicability

1. The requirements of this Local Law shall apply to all Solar Energy Systems permitted, installed, or modified in the Town after the effective date of this Local Law, excluding general maintenance and repair.
2. Solar Energy Systems constructed or installed prior to the effective date of this Local Law shall not be required to meet the requirements of this Local Law.
3. Modifications to an existing Solar Energy System that increase the Solar Energy System area by more

than 5% of the original area of the Solar Energy System (exclusive of moving any fencing) shall be subject to this Local Law.

4. All Solar Energy Systems shall be designed, erected, and installed in accordance with all applicable codes, regulations, and industry standards as referenced in the NYS Uniform Fire Prevention and Building Code (“Building Code”), the NYS Energy Conservation Code (“Energy Code”), and the Town Code.

XXX-5. General Requirements

1. A Building permit shall be required for installation of all Solar Energy Systems.
2. Issuance of permits and approvals by the Planning Board shall include review pursuant to the State Environmental Quality Review Act ECL Article 8 and its implementing regulations at 6 NYCRR Part 617 (“SEQRA”).
3. This Article shall take precedence over any inconsistent provision of the Zoning Law of the Town of Hamburg.

XXX-6. Permitting Requirements for Tier 1 Solar Energy Systems

All Tier 1 Solar Energy Systems shall be permitted in all zoning districts and shall be exempt from site plan review under the local zoning code or other land use regulation, subject to the following conditions for each type of Solar Energy Systems:

1. Roof-Mounted and Building-Mounted Solar Energy Systems.

- a. Roof-mounted and building-mounted solar energy systems are permitted as an accessory use in all zoning districts when attached to a lawfully permitted principal structure and/or accessory structure, subject to the following requirements:
 - i) Height. Solar energy systems shall not exceed maximum height restrictions within any zoning district and are provided the same height exemptions granted to building-mounted mechanical devices and equipment.
 - ii) Setback. Roof-mounted and building mounted solar energy systems are subject to the setback requirements of the underlying zoning district, and may not be installed on structures which are non-conforming to setback requirements.
 - iii) Aesthetics and Safety Design. Solar energy equipment shall incorporate the following design requirements:
 1. Roof-mounted panels facing the front yard must be mounted at the same angle as the roof’s surface with a maximum distance of 18 inches between the roof and highest edge of the system.
 2. Access and Pathways. Ground access, roof access, pathways, and spacing requirements for solar photovoltaic systems shall be provided in accordance with the Building Code.
 3. Size of solar photovoltaic array. Each photovoltaic array shall not exceed 150 feet in any direction.
 4. Where required by the Building Code to allow for smoke ventilation operations, panels and modules shall not be located less than 18 inches from a roof ridge or peak.

- iv) Single ridge roofs and hip roofs. Panels, modules, or arrays installed on single ridge roofs and hip roofs shall be located and shall provide access and pathways in a manner consistent with the Building Code.
- v) Ice guards or restraints. Any roof upon which a solar energy system is mounted or integrated must incorporate snow and ice guards or restraints sufficient to mitigate the risk of injury from falling snow or ice to persons or vehicles moving around or under the roof.

b. Glare: All Solar Panels shall have anti-reflective coating(s) and proof of such must be provided with the building permit application.

c. Fire safety: All Roof mounted systems shall be designed and installed in accordance with the Uniform Fire Prevention and Building Code Standards.

d. Notification to the Fire Service. Notification in writing to the Fire Company having operational authority at the location where the system will be installed shall be made no later than 10 days following installation:

- (1) Notification shall include a site map showing the location of the solar energy electrical panel, as well as the proper operation of the disconnect switch(s) in the event of a fire or other emergency situation where the homeowner, tenant or other personnel is not available or familiar with the safe shutdown operation of unit so as to have the ability to cut power from the solar panels.
- (2) In addition, a written statement showing the method of shutdown shall be posted inside the main electrical panel of the unit that can be readily accessible for and to firefighting personnel.

2. Building-Integrated Solar Energy Systems - Building-Integrated Solar Energy Systems shall be shown on the plans submitted for the building permit application for the building containing the system. They shall be shown to meet the applicable requirements for Tier 1 solar energy systems.

XXX-7. Permitting Requirements for Tier 2 Solar Energy Systems

All Tier 2 Solar Energy Systems shall be permitted in all zoning districts as an accessory use and require site plan review in accordance with the Town of Hamburg zoning code and other Town land use regulations. The Site Plan application shall include a site plan (see Site Plan requirements of the Town of Hamburg), and application fee as set by the Town Board, and address the following requirements:

- 1. Glare - All Solar Panels shall have anti-reflective coating(s) and proof of such must be provided with the building permit application.
- 2. Setbacks - Tier 2 Solar Energy Systems shall be setback a minimum of 30 feet from any side or rear property line. All Ground-Mounted Solar Energy Systems shall only be installed in the side or rear yards (preference is in the rear yards and it must be shown that installation in the rear yard cannot be accomplished). In all cases, the solar panels shall be located a minimum of 60 feet from any dwelling unit on an adjoining non-participating property.
- 3. Height - Tier 2 Solar Energy Systems shall be less than 12 feet in Residential Districts. Height shall be less than 15 feet for all remaining districts.
- 4. Screening and Visibility.

- a. All Tier 2 Solar Energy Systems shall have views minimized from adjacent properties to the extent reasonably practicable (as determined through the site plan process).
 - b. Solar Energy Equipment shall be located in a manner to reasonably avoid and/or minimize blockage of views from surrounding properties and shading of property to the north, while still providing adequate solar access.
5. Any Tier 2 solar energy system to be used strictly for Agricultural purposes in accordance with NYS Agriculture and Markets Law may have some of the requirements of this article waived by the Planning Board.
 6. All solar energy systems shall adhere to all applicable federal, state, county and Town of Hamburg laws, regulations and building, plumbing, electrical, and fire codes.
 7. Any solar energy system shall be accessible for all emergency service vehicles and personnel.
 8. All structures and devices used to support solar collectors shall be non-reflective and/or painted a subtle or earth-tone color.
 9. The design, construction, operation, and maintenance of any solar energy system shall prevent the misdirection and/or reflection of solar rays onto neighboring properties, public roads, and public parks in excess of that which already exists.

XXX-8. Permitting Requirements for Tier 3 Solar Energy Systems

All Tier 3 Solar Energy Systems are permitted through the issuance of a special use permit within Residential Agricultural Zoning District, Commercial Zones, Industrial Zones, and subject to site plan application requirements set forth in this Section. In order to ensure that the benefits of the community solar energy resource are available to the entire community, the Town of Hamburg may require the applicant to enter into a Host Community Agreement with the Town of Hamburg.

1. Applications (Process) for the installation of Tier 3 Solar Energy System shall be:
 - a. Received by the Planning Department and checked to make sure the appropriate documents have been submitted. The Planning Department will then forwarded to the Planning Board, by having it placed on the next available agenda, for them to determine completeness of the application **materials**. Applicants shall be advised within 10 business days of the first Planning Board meeting of the completeness of their application **materials** or any deficiencies that must be addressed prior to substantive review of the Special Use Permit and Site Plan.
 - b. Once the **application package materials** are deemed complete and while the Planning Board is completing their reviews, the project/application shall be referred to the Town Board to decide on the completion of a Host Community Agreement, This agreement, if necessary, will need to be finalized before the Planning Board acts on the Special Use Permit.
 - c. Subject to a public hearing to hear all comments for and against the application. The Town shall complete all public notice requirements in accordance with the Special Use and Site Plan requirements of the Town.
 - d. Referred to the Erie County Planning Department pursuant to General Municipal Law § 239-m if required.

- e. Acted upon by the Planning Board, once the required steps are completed and the Planning Board has completed the SEQR process.

2. Design and Application Requirements

Applications for Tier 3 Solar projects shall address and include the following:

- a. Vehicular Paths. Vehicular paths within the site shall be designed to minimize the extent of impervious materials and soil compaction.
- b. Signage.
 - i. No signage or graphic content shall be displayed on the Solar Energy Systems except the manufacturer's name, equipment specification information, safety information, and 24-hour emergency contact information. Said information shall be depicted within an area no more than 8 square feet.
 - ii. As required by National Electric Code (NEC), disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.
- c. Glare. All Solar Panels shall have anti-reflective coating(s) and proof of such submitted.
- d. Lighting. Lighting of the Solar Energy Systems shall be limited to that minimally required for safety and operational purposes and shall be reasonably shielded and downcast (dark sky compliant) from abutting properties.
- e. Noise. Information on any noise producing equipment (as determined by the Town based on application materials) shall be submitted. If necessary, the Planning Board will require analysis of the noise on any sensitive receptors, including single family homes.
- f. Tree-cutting. Removal of existing trees larger than 6 inches in diameter should be minimized to the extent possible.
- g. Decommissioning.
 - i. Solar Energy Systems that have been abandoned and/or not producing electricity (defined as operated at a minimum of 50% capacity for a period of at least 6 months) for a period of 1 year shall be removed at the Owner and/or Operator's expense, which at the Owner's option may come from any security made with the Town as set forth in this law.
 - ii. A decommissioning plan (see Appendix 1) signed by the owner and/or operator of the Solar Energy System shall be submitted by the applicant, addressing the following:
 - (a) The cost of removing the Solar Energy System (no allowance for recycle value).
 - (b) The time required to decommission and remove the Solar System and any ancillary structures.
 - (c) The time required to repair any damage caused to the property by the installation and removal of the Solar Energy System.

iii. Security

- (a) The deposit, executions, or filing with the Town Clerk of cash, bond, or other form of security reasonably acceptable to the Town Attorney and/or engineer and approved by the Town Board, shall be in an amount sufficient to ensure the good faith performance of the terms and conditions of the permit issued pursuant hereto and to provide for the removal and restorations of the site subsequent to removal. The amount of the bond or security shall be 125 % of the cost of removal of the Tier 3 Solar Energy System and restoration of the property with an escalator of 2 % annually for the life of the Solar Energy System. The decommissioning amount shall not be reduced by the amount of the estimated salvage value of the Solar Energy System.
- (b) In the event of default upon performance of such conditions, after proper notice and expiration of any cure periods, the cash deposit, bond, or security shall be forfeited to the Town, which shall be entitled to maintain an action thereon. The cash deposit, bond, or security shall remain in full force and effect until restoration of the property as set forth in the decommissioning plan is completed.
- (c) In the event of default or abandonment of the Solar Energy System, the system shall be decommissioned as set forth in this law.

- h. Application Fees: All applications for Tier 3 solar energy systems shall include the appropriate fees as set by the Hamburg Town Board.
- i. Maintenance Plan: applications shall include a maintenance plan for all leased lands (including required setbacks/buffers).
- j. Safety; applications shall include a safety plan (including communication with emergency service providers).
- k. Environmental and cultural resources; information on the environmental and cultural resources (as identified through the NYSDEC Mapping system and by the Town of Hamburg) on the subject property and surrounding properties.

l. A property owner who has installed or intends to install a Tier 3 solar energy system may choose to negotiate with other property owners in the vicinity for any necessary solar skyspace easements. The issuance of a special use permit does not constitute solar skyspace rights, and the Town shall not be responsible for ensuring impermissible obstruction to the solar skyspace as a result of uses or development performed in accordance with Town Code. In the event that solar easements are negotiated by an applicant or property owner for a utility-scale solar energy system, a copy or documentation of any solar skyspace easements shall be provided, properly recorded as such, negotiated with neighboring property owners that shall, at a minimum, include:

- (a) The restrictions placed upon buildings, structures, vegetation and other objects or uses that would potentially obstruct the solar skyspace of the solar energy system; and
- (b) A description of the dimensions of the easement expressed in measurable terms, such as the maximum height of buildings and structures, vertical or horizontal angles measured in degrees, or the hours of the day on specified dates during which direct sunlight to a specified surface of a solar collector may not be obstructed, or a combination of these descriptions; and
- (c) The amount, if any, of permissible obstruction of the solar skyspace through the easement, expressed in measurable terms, such as a specific percentage of the solar skyspace that may be obstructed or hours during the day; and

- (d) Provision for trimming vegetation that would impermissibly obstruct solar skyspace, including any compensation for trimming expenses; and
- (e) Provisions for compensation of the owner/operator benefitting from the easement in the event of impermissible obstruction of the solar skyspace that would be in violation of the easement; and
- (f) The terms or conditions, if any, under which the easement may be revised or terminated.

3. Site plan application - For any Solar Energy system requiring a Special Use Permit, site plan approval shall be required. This required site plan application shall include a site plan and the following information:
- a. A Plan illustrating property lines and physical features, including roads, for the project site.
 - b. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, and screening vegetation or structures
 - a. A one- or three-line electrical diagram detailing the Solar Energy System layout, solar collector installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over current devices.
 - c. A preliminary equipment specification sheet that documents all proposed solar panels, significant components, mounting systems, and inverters that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of building permit.
 - d. Name, address, and contact information of proposed or potential system installer and the owner and/or operator of the Solar Energy System. Such information of the final system installer shall be submitted prior to the issuance of building permit.
 - e. Name, address, phone number, and signature of the project applicant, as well as all the property owners, demonstrating their consent to the application and the use of the property for the Solar Energy System.
 - f. Zoning district designation for the parcel(s) of land comprising the project site.
 - g. Property Operation and Maintenance Plan. Such plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing and trimming (or other methodologies).
 - h. Erosion and sediment control and storm water management plans prepared to New York State Department of Environmental Conservation standards, if applicable, and to such standards as may be established by the Planning Board.
 - i. Engineering documents must be signed and sealed by a New York State (NYS) Licensed Professional Engineer or NYS Registered Architect.
 - j. A completed SEQR Full Environmental Assessment Form.
 - k. A Landscape Plan in accordance with the Special Use Permit requirements of this law.

- l. Any such additional information as may be required by the Town's professional engineer or consultant, Town of Hamburg Planning Board, Town Planning Board Attorney, Building Inspector or other Town official.

XXX-9. Special Use Permit Standards (in addition to those required in the General Provisions of Article XLVI)

1. Specific Standards

- a. Lot size – There are no lot size requirements; the project must be shown to meet all setback and other requirements of this law.
- b. Setbacks - All Tier 3 Solar Energy Systems shall be setback a minimum of 50 feet from the fence surrounding the solar panels and equipment to all property lines and to the edge of any road ROW. Additionally, the setback from the fence line shall be a minimum of 300 feet from the side or rear of a dwelling unit on an adjoining non-participating property. The setback to any off-site participating dwelling unit shall be 100 feet from the side or rear of the dwelling unit.
- c. Height - The Tier 3 Solar Energy Systems shall be less than or equal to 20 ft. The height of systems will be measured from the highest natural grade below each solar panel. This height requirement can be waived by the Planning Board if the panels are being raised to accommodate agricultural purposes.
- d. Fencing Requirements - All mechanical equipment, including any structure for storage batteries, shall be enclosed by a fence, and meet any other regulatory requirements such as NEC, with a self-locking gate to prevent unauthorized access.
- e. Screening and Visibility.
 - i. Solar Energy Systems smaller than 5 acres shall have views minimized from adjacent properties to the extent reasonably practicable using architectural features, earthen berms, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area.
 - ii. Solar Energy Systems larger than 5 acres shall be required to:
 - (a) Conduct a visual assessment of the visual impacts of the Solar Energy System on public roadways and adjacent properties. At a minimum, a line-of-sight profile analysis shall be provided. Depending upon the scope and potential significance of the visual impacts, additional impact analyses, including for example a digital viewshed report, may be required to be submitted by the applicant.
 - (b) Submit a screening & landscaping plan to show adequate measures to screen through landscaping, grading, or other means so that views of Solar Panels and Solar Energy Equipment shall be minimized as reasonably practical from public roadways and adjacent properties to the extent feasible. The Planning Board will in good faith determine the adequacy of these measures in its sole and absolute discretion.
 - (c) The screening & landscaping plan shall specify the locations, elevations, height, plant species, and/or materials that will comprise the structures, landscaping, and/or grading used to screen and/or mitigate any adverse aesthetic effects of the system. The landscaped screening shall be

comprised of a minimum of 1 evergreen tree, at least 6 feet high at time of planting, plus 2 supplemental shrubs at the reasonable discretion of the Town Planning Board, all planted within each 10 linear feet of the Solar Energy System (. Existing vegetation may be used to satisfy all or a portion of the required landscaped screening. A list of suitable evergreen tree and shrub species should be provided by the Town. This minimum screening requirement will be reduced if adjoining properties are participating properties.

(d) For any buildings or structures (not panels) to be placed on the site, the applicant shall be required to submit plans illustrating how these structures will blend into the character of the area. For example, buildings can be made to look like agricultural structures such as barns.

f. Agricultural Resources. For projects located on agricultural lands:

- i. Tier 3 Solar Energy Systems located on Prime Farmland shall be constructed in accordance with the construction requirements of the New York State Department of Agriculture and Markets (See NYS Agriculture and Markets Guidelines).
- ii. Tier 3 Solar Energy System owners shall develop, implement, and maintain native vegetation to the extent practicable pursuant to a vegetation management plan by providing native perennial vegetation and foraging habitat beneficial to game birds, songbirds, and pollinators. To the extent practicable, when establishing perennial vegetation and beneficial foraging habitat, the owners shall use native plant species and seed mixes. Once established, other agriculture uses such as pasturing livestock and apiculture are permissible and encouraged. Input from the local farmers and Town Agricultural Committee (if in place) will be needed to make these determinations.
- iii. Agricultural Restoration Requirements: once the system is decommissioned, the site shall be restored and remediated in accordance with the NYS Agriculture and Markets Guidelines (this will be a condition of the Special Use Permit).

g. Noise: The project shall be shown to not have any adverse noise impacts on any surrounding homes or other sensitive receptors (use of NYSDEC regulations concerning noise).

h. Hazardous Materials: The project components shall not contain any hazardous materials that could contaminate soils or the air by their release (units shall not contain cadmium).

i. Solar Energy System Liability Insurance:

i. The Holder of a Special Use Permit for a Solar Energy System Shall Agree to secure and maintain for the duration of the permit, public liability insurance as follows:

(a) Commercial general liability covering personal injuries, death and property damage:

\$5,000,000 per occurrence (**\$10,000,000** aggregate) which shall specifically include the Town of Hamburg and its officers, councils, employees, attorneys, agents and consultants as additional named insured;

(b) Umbrella coverage: \$10,000,000.

ii. Insurance Company: The insurance policies shall be issued by an agent or representative of an

insurance company licensed to do business in the State and with at least a Best's rating of "A".

- iii. Insurance Policy Cancellation: The insurance policies shall contain an endorsement obligating the insurance company to furnish the Town of Hamburg with at least thirty (30) days prior written notice in advance of cancellation.
- iv. Insurance Policy Renewal: Renewal or replacement policies shall be delivered to the Town of Hamburg at least fifteen (15) days before the expiration of the insurance that such policies are to renew or replace.
- v. Copies of Insurance Policy: No more than fifteen (15) days after the grant of the permit before construction is initiated, the permit holder shall deliver to the Town of Hamburg a copy of each of the policies or certificates representing the insurance in the required amounts.
- vi. Certificate of Insurance: A certificate of insurance states that it is for informational purposes only and does not confer sufficient rights upon the Town of Hamburg shall not be deemed to comply with this Law.
- vii. Indemnification: Any application for a Solar Energy System within the Town of Hamburg shall contain an indemnification provision. The provision shall require the Applicant/Owner/Operator to at all times defend, indemnify, protect, save, hold harmless and exempt the town of Hamburg and its officers, councils, employees, attorneys, agents and consultants from any and all penalties, damages, costs or charges arising out of any and all claims, suits, demands, causes of action or award of damages whether compensatory or punitive, or expenses arising therefrom either at law or in equity which might arise out of or are caused by the placement, construction, erection, modification, location, equipment's performance, use, operation, maintenance, repair, installation, replacement, removal or restoration of said Solar Energy System, excepting however, any portion of such claims, suits, demands, causes of action or award of damages as may be attributable to the negligent or intentional acts or omissions of the Town of Hamburg or its employees or agents. With respect to the penalties, damages, or changes referenced herein, reasonable attorneys' fees, consultant' fees and expert witness fees are included in those costs that are recoverable by the Town of Hamburg.

XXX-10. Ownership Changes

If the owner or operator of the Solar Energy System changes or the owner of the property changes, the special use permit shall remain in effect, provided that the successor owner or operator assumes in writing all of the obligations of the special use permit, site plan approval, and decommissioning plan. A new owner or operator of the Solar Energy System shall notify the zoning enforcement officer of such change in ownership or operator within 30 days of the ownership change.

XXX-11. Safety

1. Solar Energy Systems and Solar Energy Equipment shall be certified under the applicable electrical and/or building codes as required.
2. Solar Energy Systems shall be maintained in good working order and in accordance with industry standards. Site access shall be maintained, including snow removal at a level acceptable to the local fire department and, if the Tier 3 Solar Energy System is located in an ambulance district, the local ambulance corps.
3. If Storage Batteries are included as part of the Solar Energy System, they shall meet the requirements of any applicable Local Law, fire prevention and building code when in use and, when no longer used, shall be disposed of in accordance with the laws and regulations of the Town and any applicable

federal, state, or county laws or regulations.

XXX-12. Permit Time Frame and Abandonment

1. The Special Use Permit and site plan approval for a Solar Energy System shall be valid for a period of 18 months, provided that construction has commenced. In the event construction is not completed in accordance with the final site plan as may have been amended and approved, as required by the Planning Board, within 18 months after approval, the applicant or the Town may extend the time to complete construction for 180 days. If the owner and/or operator fails to perform substantial construction after 24 months, the approvals shall expire.
2. Upon cessation of electricity generation of a Solar Energy System on a continuous basis for 12 months, the Town may notify and instruct the owner and/operator of the Solar Energy System to implement the decommissioning plan. The decommissioning plan must be completed within 360 days of notification.
3. If the owner and/or operator fails to comply with decommissioning upon any abandonment, the Town may, at its discretion, utilize the bond and/or security for the removal of the Solar Energy System and restoration of the site in accordance with the decommissioning plan.

XXX-13. Enforcement

Any violation of this Solar Energy Law shall be subject to the same enforcement requirements, including the civil and criminal penalties, provided for in the zoning or land use regulations of the Town.

XXX-14. Severability

The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision, or phrase of the aforementioned sections, as declared by the valid judgment of any court of competent jurisdiction to be unconstitutional, shall not affect the validity or enforceability of any other section, subsection, paragraph, sentence, clause, provision, or phrase, which shall remain in full force and effect.

APPENDIX 1: EXAMPLE DECOMMISSIONING PLAN

Date: [Date]

Decommissioning Plan for [Solar Project Name], located at: [Solar Project Address]

Prepared and Submitted by [Solar Developer Name], the owner of [Solar Farm Name]

As required by [Town/Village/City], [Solar Developer Name] presents this decommissioning plan for [Solar Project Name] (the "Facility").

Decommissioning will occur as a result of any of the following conditions:

1. The land lease, if any, ends
2. The system does not produce power for [12] months
3. The system is damaged and will not be repaired or replaced

The owner of the Facility, as provided for in its lease with the landowner, shall restore the property to its condition as it existed before the Facility was installed, pursuant to which may include the following:

1. Removal of all operator-owned equipment, concrete, conduits, structures, fencing, and foundations to a depth of 36 inches below the soil surface.
2. Removal of any solid and hazardous waste caused by the Facility in accordance with local, state and federal waste disposal regulations.
3. Removal of all graveled areas and access roads unless the landowner requests in writing for it to remain.

All said removal and decommissioning shall occur within [12] months of the Facility ceasing to produce power for sale.

The owner of the Facility, currently [Solar Developer Name], is responsible for this decommissioning.

Facility Owner Signature: _____ Date: _____